

No. 14-0730 RV

¹ All references to the CSR are to the Missouri Code of State Regulations as current with amendments included in the Missouri Register through the most recent update.

grant a motion for decision on the pleadings if a party's pleading, taken as true, entitles another party to a favorable decision.

Based upon the complaint, which we take as true for purposes of ruling on the motion for decision on the pleadings, we find the following facts:

Facts Taken as True for Purposes of Ruling on the Motion

1. At the end of April, 2014, Barnes donated a vehicle to charity and removed the license plates and tabs, which were to expire in January of 2016.
2. He inquired about seeking a refund for the unused portion of the renewal fee for the plates and tabs and was told to complete a particular form and mail the plates and tabs, with supporting documentation, to the Department of Revenue in Jefferson City, Missouri.
3. By letter dated May 6, 2014, the Director denied Barnes' refund request.

Conclusions of Law

This Commission has jurisdiction over appeals from the Director's final decisions.² Barnes has the burden to prove that he is entitled to a refund.³ Our duty is not merely to review the Director's decision, but to independently apply existing law to the facts and render the ultimate administrative decision.⁴

A refund is a limited waiver of sovereign immunity and is not allowed unless expressly permitted by statute.⁵ "When a state consents to be sued, it may be proceeded against only in the manner and to the extent provided by the statute; and the state may prescribe the procedure to be followed and such other terms and conditions as it sees fit."⁶

² Section 621.050. All statutory references are to RSMo Supp. 2013, unless otherwise noted.

³ *Id.*

⁴ *J.C. Nichols Co. v. Director of Revenue*, 796 S.W.2d 16, 20-21 (Mo. banc 1990).

⁵ *Community Fed. Sav. & Loan Ass'n v. Director of Revenue*, 796 S.W.2d 883, 885 (Mo. banc 1990).

⁶ *State ex rel. Brady Motorfrate, Inc. v. State Tax Comm'n.*, 517 S.W.2d 133, 137 (Mo. 1974).

Missouri statutes provide for refunds or credits against unused license plates and tabs from motor vehicles only in limited circumstances. Section 301.121, for example, provides for a refund of certain amounts paid when a license plate is surrendered, but only for commercial vehicles registered in excess of 54,000 pounds. By contrast, § 301.140.7, which applies to other motor vehicles, provides:

Upon the transfer of ownership of any currently registered motor vehicle wherein the owner cannot transfer the license plates due to a change of vehicle category, **the owner may surrender the license plates issued to the motor vehicle and receive credit for any unused portion of the original registration fee against the registration fee of another motor vehicle.** Such credit shall be granted based upon the date the license plates are surrendered. **No refunds shall be made on the unused portion of any license plates surrendered for such credit.**

Section 301.140.7 allows a credit for the unused portion of the original registration fee against the registration fee of another motor vehicle upon transfer of ownership of a vehicle, but only when the owner cannot transfer the license plates due to a change of vehicle category. Based upon the facts before us, Barnes did not surrender his plates due to a change in vehicle category, so he is not eligible for a credit under this subsection. The provision expressly disallows a refund for the unused portion of plates and tabs.⁷

Barnes' complaint states that when he bought a different vehicle in March of this year, he continued to drive the one he later donated to charity, so he did not remove and transfer the plates and tabs. He also suggests he should get a refund because the local Department of Revenue office gave him instructions on how to apply for one. However, we may do only what the law allows us to do, and neither the Director nor this Commission may change the law.⁸ When we consider the general principles of law governing refunds, and examine the pertinent

⁷ We also note that § 301.140.3 allows a reduced transfer fee when license plates are transferred from a motor vehicle that will no longer be operated to a newly purchased motor vehicle, but this does not apply to Barnes' situation either.

⁸ *Lynn v. Director of Revenue*, 689 S.W.2d 45, 49 (Mo. banc 1985).

statutes, we find no law authorizing a refund to Barnes under these circumstances. We conclude that none exists. Therefore, we must deny Barnes' request for a refund.

Summary

Barnes is not entitled to a refund of the fees he paid for the license plates and tabs.

SO ORDERED on June 23, 2014.

/s/ Mary E. Nelson

MARY E. NELSON
Commissioner